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Norma E. Ortiz, Esq.  
*Attorney for the Debtor*

Hearing Date: January 5, 2023  
Time: 10:00 a.m.

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re

CIRILO MATA,

Case No.: 22-22324-shl

Chapter 7

Debtor.

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**NOTICE OF HEARING ON THE DEBTORS  
MOTION TO DISMISS CHAPTER 7 CASE**

**PLEASE TAKE NOTICE** that a virtual hearing held **virtually through Zoom** to consider the above captioned Debtor's Motion to Dismiss the Chapter 7 Case (the "Motion") shall be conducted before the Honorable Sean H. Lane, U.S. Bankruptcy Judge, on 5<sup>th</sup> day of January 2022, at 10:00 a.m, in the United States Bankruptcy Court, Southern District of New York, 300 Quarropas Street, White Plains, New York, or as soon thereafter as counsel may be heard, for the entry of an order pursuant to Section 707 of Title 11, United States Code, 11 U.S.C. §§ 101 et seq. (the "Bankruptcy Code"), to dismiss the Chapter 7 case of the above-captioned Debtor. The Debtor may request such other and further relief as is just and equitable at the hearing.

**PLEASE TAKE FURTHER NOTICE** that the hearing will only be conducted **virtually via Zoom for Government**. You are not required to appear but if you choose to do so, you should not appear in person. You must follow the directions for participating by Zoom that are located at <http://www.nysb.uscourts.gov/content/judge-sean-h-lane> and follow the directions set forth therein. The

directions include registering with the ecourt appearances tool no later than 4:00 p.m. two business days before the scheduled hearing date. **If you have any difficulties or questions, please contact the undersigned.**

**PLEASE TAKE FURTHER NOTICE** that objections, if any, to the relief requested in the Motion must be made in writing and must be filed with the Clerk of the Bankruptcy Court electronically at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov). If you do not have the ability to file an objection electronically, the objection may be filed with the Clerk of the Court by presenting the Clerk with a copy of the objection saved in .pdf format. A copy of the objection must be provided to (a) the Chambers of the Honorable Sean H. Lane, (b) Ortiz & Ortiz, LLP, at the address listed below, and (c) all parties filing Notices of Appearance, so as to be received no later than seven (7) days prior to the hearing. The objection must comply with the Bankruptcy Rules and the Local Bankruptcy Rules of the court and must state with particularity the legal and factual bases for such objection.

Dated: December 2, 2022  
New York, NY

/s/Norma E. Ortiz  
Norma E. Ortiz, Esq.  
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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re

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**DEBTOR'S MOTION TO DISMISS CHAPTER 7 CASE**

Cirilo Mata (the "Debtor"), by and through its counsel Ortiz & Ortiz, L.L.P., hereby  
states as follows:

**BACKGROUND**

1. The Debtor filed a voluntary Chapter 7 petition on June 2, 2022 (the "Petition Date").
2. The Debtor is a truck driver that earns a nominal weekly salary. Prior to the COVID-19 business shut-down, the Debtor served as an independent contractor that provided trucking and transportation services in connection with the delivery of produce from the Hunts Point market located in Bronx County, New York, and he earned a higher level of income than he presently earns. The Debtor lost that position and has been struggling to meet his obligations.
3. The Debtor filed his bankruptcy petition because he was informed that he could

possibly participate in a short sale of his home. Since the Petition Date, his efforts to consummate the sale of his home have not been fruitful. The mortgagee has moved for relief from the automatic stay and the Debtor does not oppose this motion.

4. The Debtor does not seek a discharge of his debt. Although his income, at the present time, is not sufficient to pay his creditors, he informed the undersigned that he does not seek a discharge of debt and if his attempt to sell his home has failed, he would like to attempt to pay his debt outside of the bankruptcy court process.

5. Upon information and belief, the Debtor's home does not have equity that exceeds his homestead exemption. In fact, he believes that there is no equity in his home.

### **RELIEF REQUESTED**

6. The Debtor requests that the Court dismiss his case pursuant to 11 U.S.C. § 707(a). That section provides in relevant part that a Chapter 7 case may be dismissed, after notice and a hearing, for cause. Although the term cause is not defined in Section 707(a), it is a determination that "is guided by equitable considerations and committed to the sound discretion of the bankruptcy court." In re Hull, 339 B.R. 304, 308 (Bankr. E.D.N.Y. 2006).

7. The Debtor informed the undersigned that he never intended to seek a discharge of his debt obligations. He admits that despite receiving a fulsome explanation of the Chapter 7 bankruptcy process, he did not comprehend that his attempt to sell his home would involve discharging all other debt. For these reasons, the Debtor respectfully requests that the Court dismiss his case pursuant to 11 U.S.C. § 707(a).

8. No prior motion of this kind has been made by the Debtor.

WHEREFORE, the Debtor requests that the Court grant the relief requested above  
and grant such other and further relief as the Court deems appropriate and just.

Dated: New York, NY  
December 2, 2022

/s/Norma E. Ortiz  
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Tel. (718) 522-1117  
*Attorney for the Debtor*

## **PROPOSED ORDER**

U. S. BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X

In re

CIRILO MATA,

Case No. 22-22324-shl

Chapter 7

Debtor.

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**ORDER DISMISSING CASE PURSUANT TO 11 U.S.C. § 707**

Upon the Motion to Dismiss the Chapter 7 Case filed by Cirilo Mata (the “Debtor”) dated December 2, 2022 (the “Motion”); a hearing having been held on the Motion on January 5, 2022; proper notice having been given, and cause having been shown for the relief requested, it is hereby

ORDERED, that the Motion is granted; and it is further

ORDERED, that the Chapter 7 case commenced by the above-captioned debtor is hereby dismissed pursuant to 11 U.S.C. § 707.

White Plains, New York  
January 5, 2022

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Sean H. Lane  
U.S. Bankruptcy Judge